

Expedited Procedure

Objection Process Information

A simple guide for exploration and prospecting proponents.

Step:

What you need to do:



1. An objection is lodged with the NNTT

The native title party objects because it considers the expedited procedure (fast track process) should not apply. It is not objecting to the grant of the tenement itself.

No action yet.

- ☐ Read the NNTT's notification email.



2. Preliminary conference

The NNTT sets a date for a short phone conference before a Tribunal Member. Your case manager will be your main NNTT contact.

- ☐ Attend the conference.
- ☐ Contact the native title party beforehand where possible and be ready to discuss whether you are willing to negotiate.



3. Negotiations and active case management

If the parties are willing to negotiate, the matter moves into active case management. The parties can discuss proposed exploration/prospecting activities, heritage protection measures and associated costs.

- ☐ Negotiate with the native title party.
- ☐ Respond promptly to your NNTT case manager and provide regular progress updates.



4. NNTT assistance and agreement-making

Your case manager may arrange a case management conference. The NNTT can also assist through a section 150 conference. If agreement is reached, the native title party will usually withdraw the objection, and the State can proceed with the grant.

- ☐ Ask for NNTT assistance if needed.
- ☐ Finalise the agreement if one is reached.



5. Inquiry

If agreement cannot be reached, the objection may proceed to inquiry. The Tribunal Member will set directions requiring evidence and submissions about whether section 237 applies.

- ☐ Meet the deadlines to provide any evidence or submissions.



6. Determination

The Tribunal Member decides whether the expedited procedure applies. If it applies, the State can proceed to grant the tenement. If it does not, the matter moves into the right to negotiate process.

- ☐ Await the Tribunal Member's decision which will be made 'on the papers' and sent to the parties once finalised.

Frequently Asked Questions

Why has the native title party lodged an objection?

The native title party believes that the expedited procedure statement should not be applied to the grant of a tenement because it believes section 237 of the *Native Title Act 1993* (Cth) does not apply in relation to the area of the tenement application.

Section 237 provides that a future act is an act attracting the expedited (fast track) procedure if the granting of the tenement:

- is not likely to interfere directly with the community or social activities of the native title holders, and
- is not likely to interfere with areas or sites of particular significance, and
- is not likely to involve major disturbance to any land or waters concerned.

Who are the parties to the objection?

There are three parties in this process:

- The grantee party (who has applied for the tenement).
- The native title party (whose determination or registered claim covers at least part of the tenement area).
- The government party (the State department).

What is the purpose of agreement-making?

- The NNTT's process allows time for the grantee party to reach an agreement with the native title party so that it withdraws its objection to the fast tracking of the grant of the tenement.
- With agreement-making the parties remain in control of the timing of resolution of the objection. An agreement can also establish ongoing, positive relations that mean both the grantee party's interests and the native title party's rights and interests are protected.

How do the grantee and native title parties usually negotiate?

- Some native title parties may wish to meet with the grantee party to build a relationship before negotiations begin.
- The native title party will send a draft agreement outlining how it wants to protect its heritage.
- This provides the grantee party an opportunity to explain what prospecting or exploring it wants to undertake.
- Together the parties can work out an agreement that allows prospecting and exploration with measures in place to protect Aboriginal cultural heritage and areas significant to the native title party.
- How the costs of the native title party's work and knowledge will be covered usually forms part of negotiations.

If the matter goes to inquiry and determination, are submissions and evidence required?

- The directions set by the Tribunal Member require the parties to provide submissions by certain dates.
- A Tribunal Member can make a decision even if the grantee party does not lodge submissions and evidence, but that decision will be based only on the evidence of the other parties.

For further information and assistance

Contact: your NNTT case manager

Email: enquiries@nntt.gov.au

Visit: www.nntt.gov.au/future-acts/expedited-procedure-objections

Download the Expedited Procedure Process Flowchart Diagram (198K)